

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Larry James Tyler,)	Civil Action No.: 9:13-3135-MGL
)	
Plaintiff,)	
)	
vs.)	ORDER AND OPINION
)	
Wayne Byrd; Eric Hodge; Shawn Tunsdall; and Russ Harrell)	
)	
Defendants.)	
)	

Plaintiff Larry James Tyler (“Plaintiff”), a state prisoner proceeding pro se, filed this civil action against Wayne Byrd, Eric Hodge, Shawn Tunsdall and Russ Harrell (“Defendants”) challenging a conviction for disseminating obscene material to a minor 12 years old or younger. (ECF No. 1.) The matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Bristow Marchant made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B) D.S.C. On January 6, 2014, Magistrate Judge Marchant issued a Report and Recommendation recommending that the court dismiss Plaintiff’s complaint without prejudice and service of process for failure to state a claim upon which relief may be granted. (ECF No. 11.)

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). The court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. *Id.* The court is charged with making a *de novo* determination of those

portions of the Report and Recommendation to which specific objections are made.

Plaintiff was advised of his right to file objections to the Report and Recommendation. (ECF No. 11 at 4.) However, Plaintiff filed no objections and the time for doing so expired on February 18, 2014.¹ In the absence objections to the Magistrate Judge's Report and Recommendation, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 and advisory committee's note).

After a careful review of the record, the applicable law, and the Report and Recommendation, the court finds the Magistrate Judge's recommendation to be proper. Accordingly, the Report and Recommendation is adopted and incorporated herein by reference and this action is DISMISSED without prejudice and without service of process.

IT IS SO ORDERED.

/s/Mary G. Lewis
United States District Judge

Spartanburg, South Carolina
March 20, 2014

¹Objections by the Plaintiff were initially due by January 24, 2014. On January 31, 2014, Plaintiff filed a motion for extension of time (ECF No. 13) which was granted, and Plaintiff's response date was extended to February 18, 2014.